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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/961,375	09/25/2001	Tsunayuki Owa	214182US6	5959

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EXAMINER	
FISCHETTI, JOSEPH A	

ART UNIT	PAPER NUMBER
3627	

DATE MAILED: 02/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/961,375	OWA, TSUNAYUKI	
	Examiner	Art Unit	
	Joseph A. Fischetti	3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 November 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-31* is/are pending in the application.

4a) Of the above claim(s) *9-24,27-29 and 31* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8,25,26,30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-4, 6-8, 25, 26, 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Groot in view of Leahy et al. and Kawamura et al.

De Groot discloses community service offering apparatus (10) for exchanging information with a plurality of user terminals connected by a network, the apparatus comprising virtual space information storing means for storing advance information about a plurality of virtual spaces (see col. 3 space modules read as the storage means); host means col. 5 lines 29-32 is read as the virtual space offering means for allowing a user to select any one of said virtual spaces and for offering the selected virtual space as a user-specific virtual space owned by said user regarded as a privileged user. De Groot however is silent regarding a charge controlling means for charging said privileged user who owns said user-specific virtual space a fee corresponding to a type of said user-specific virtual space. However, Leahy et al. discloses a display Fig. 1 and controlling means (world object 66) for charging said privileged user who owns said user-specific virtual space a fee corresponding to a type of said user-specific virtual space, see col.15, lines 4-15 e.g. for billing purposes the world object 66 collects statistics of which rooms are most popular e.g. usage. Since the

usage is tied to which rooms are "most popular", it would be an obvious variant to bill according to popularity otherwise there would be no concern over popularity. It would be an obvious modification to DeGroot to include the charging control means of Leahy et al. because this would enable revenue from usage of the virtual space and further to change the virtual space storage means as spaces offered for purchase based on Leahy et al.'s teaching of charging for virtual space.

In addition, the above combination is silent regarding the feature of "specifying a plurality of types of virtual spaces to be offered for selection" But, Kawamura et al. disclose :

> a request-storing module which stores more than one request from the client terminals and a space definition data-updating module which updates, according to the requests from the client terminals, the data defining the virtual space. The space definition data-updating module does not start processing of requests from other client terminals until the processing of the request from one of the client terminals is completed. Besides, the virtual space information processor includes a request processing control module which selects an appropriate module for processing a request stored in the request-storing module and instructs the selected module to process the request.

It would obvious to modify the above noted combination to include the virtual space selection feature of the Kawamura et al. the motivation being the ability to offer a choice of space, e.g. two dimension or three dimension space, from such a selection. Note, re claim 25, Leahy discloses a display for showing out of body virtual space. Re claim 31 is merely a methodology of the means recited in the above combination.

Re claims 2,3,4, 25: official notice is taken to the old and notorious practice of charging only those customers who use a product as well as the practice of prorating the cost of renting space such as in the case of renting a charter fishing boat where the excursion fee a person pays is based upon the base cost divided by the number of people who are in the party. Re claim 3 amended: each room has a given maximum number of avatars see, Leahy et al., col. 13 lines 21-26.

Re claim 5, 26; Since each room has a given maximum number of avatars (objects) see, Leahy et al., col. 13 lines 21-26, it is deemed an obvious variant of Leahy which monitors popularity in conjunction with billing to bill higher at the most popular spaces .

Re claims 7,8: De Groot, col. 3, lines 36-41, discloses a space slave module which creates objects in the space answering managing objects. Since the slave module can only be operated by a person who owns the server, this answers the limitation of only privileged users managing the objects.

Re claim 6: Leahy et al. discloses in col. 5 lines 62-63, using a user ID to gain access to a virtual room and hence is an access managing means for managing access to said user-specific virtual space.

Applicant's arguments were reviewed in detail but were not persuasive because it exceeds the scope of the claim. Applicant argues that "Leahy et al does not disclose charging only the "first user"... and allowing all other users to use the room without charge". However, the particular language which quantifies this feature is found in claism2 which states the charge controlling means does not charge fees on users other

than the first user. However the form of this limitation is not in the 112 6th form and thus is deemed to be functional language which is met by the capability of Leahy to accommodate this feature.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication should be directed to Joseph A. Fischetti at telephone number (703) 305-0731.

JOSEPH A. FISCHETTI
PRIMARY EXAMINER